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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,508	11/18/2005	Vahit Uyanik	5170-00001	4325

26753 7590 04/27/2007
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EXAMINER

MACARTHUR, VICTOR L

ART UNIT	PAPER NUMBER
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3679

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/533,508

Applicant(s)

UYANIK, VAHIT

Examiner

Victor MacArthur

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/2/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claims 2 and 4 are objected to because of the following informalities:

- The phrase "the fence modules" (line 2 of claim 2) lacks proper antecedent basis since only one fence module is previously set forth. The phrase should be replaced with --fence modules--.
- The term groove (line 4 of claim 4) should be replaced with --grooves-- to improve claim clarity.

Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

The phrase "slot/recess" (line 4 of claim 1 and elsewhere throughout the claims) renders the claims indefinite because it is unclear what subject matter the applicant regards as the

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invention. Is the applicant claiming a slot, a recess, combination of both, or are the terms slot and recess both intended to describe a common element?

It is unclear what the phraseology "the nut having toothed of the connecting element" (lines 2-5 of claim 5) is meant to convey.

It is unclear how the "nut (4)" (line 2 of claim 5) can be considered to be "configured to pass through the connecting element (3)" (lines 4-5 of claim 5). The examiner suggests amending the claim to recite that the nut is configured to receive the connecting element therethrough.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnston (U.S. Patent 4,384,606).

Claim 1. Johnston discloses (figs. 1-7) a fence fashioned from raw plastics material, comprising a fence module (10S), the fence module including a slot/recess (10SA, 10SAI); connecting element (16); and fixing nut (16SS). The specific method of forming is not germane to the issue of patentability of the device itself. See MPEP § 2113. It is well established by case law that it is the patentability of the product that is to be determined even though such claims are limited and defined by process steps. See *In re Thorpe et al*, 227 USPQ 964 (CAFC 1985).

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Therefore, the limitation "by plastics injection moulding technique" has been given only limited patentable weight.

Claim 2. Johnston discloses the fence as claimed in claim 1, wherein a plurality of the fence modules are connected by fitting the connecting element, through the slots/recesses that take place on the fence modules and fixing the connecting element with the fixing nut.

Claim 3. Johnston discloses the fence as claimed in claim 1 wherein the slots/recesses are positioned on the top of each one of the fence modules that form the fence.

Claim 4. Johnston discloses the fence as claimed in claim 1, wherein the connecting element includes groove (grooves between threads of 16).

Claim 5. Johnston discloses the fence as claimed in claim 1, wherein the nut having toothed of the connecting element (as best understood by the examiner, see 35 U.S.C. 112 2nd rejections above) and being configured to pass through the connecting element (as best understood by the examiner, see 35 U.S.C. 112 2nd rejections above).

Claim 6. Johnston discloses the fence as claimed in claim 1, wherein the fence is adjustable in length in the area where it is being set up (i.e., by adding or removing elements 10S).

Claim 7. Johnston discloses the fence as claimed in claim 1, wherein the raw plastics material is light weight (as is an inherent property of plastic) and having a fixed color (in that all plastic materials inherently have some fixed color) such that extra maintenance is not required (in as much as the applicant's invention is).

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Referring to fences:

Nash U.S. Patent 5,131,630

Koljonen U.S. Patent 5,934,651

Petrozziello Pub.No.: US 2005/0218392

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085.

The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



Victor L. MacArthur
Art Unit 3679

April 23, 2007